

Effective 7/1/2014

Superseded 5/12/2015

77-23-210 Force used in executing a search warrant -- When notice of authority is required as a prerequisite.

- (1) When a search warrant has been issued authorizing entry into any building, room, conveyance, compartment, or other enclosure, the officer executing the warrant may enter:
 - (a) if, after notice of the officer's authority and purpose, there is no response or the officer is not admitted with reasonable promptness; or
 - (b) without notice of the officer's authority and purpose as provided in Subsection (3).
- (2) The officer executing the warrant under Subsection (1) may use only that force which is reasonable and necessary to execute the warrant.
- (3)
 - (a) The officer shall identify himself or herself and state the purpose of entering the premises as soon as practicable.
 - (b) The officer may enter without notice only if:
 - (i) there is reason to believe the notice will endanger the life or safety of the officer or another person;
 - (ii) there is probable cause to believe that evidence may be easily or quickly secreted or destroyed; or
 - (iii) the magistrate, having found probable cause based upon proof provided under oath, that the object of the search may be easily or quickly secreted or destroyed, or having found reason to believe that physical harm may result to any person if notice were given, has directed that the officer need not give notice of authority and purpose before entering the premises to be searched under Rule 40, Rules of Criminal Procedure.
- (4)
 - (a) The officer shall take reasonable precautions in execution of any search warrant to minimize the risks of unnecessarily confrontational or invasive methods which may result in harm to any person.
 - (b) The officer shall minimize the risk of searching the wrong premises by verifying that the premises being searched is consistent with a particularized description in the search warrant, including such factors as the type of structure, the color, the address, and orientation of the target property in relation to nearby structures as is reasonably necessary.